



February 22, 2002

ENGROSSED SENATE BILL No. 17

DIGEST OF SB 17 (Updated February 20, 2002 6:01 PM - DI 103)

Citations Affected: IC 6-1.1; IC 6-3.5.

Synopsis: Rainy day fund loans. Authorizes loans from the rainy day fund for the taxing units located in Porter County that will experience a budget shortfall as the result of the bankruptcy of a steel manufacturer located in the county. Provides that the loans are interest free and must be repaid over a period not to exceed 10 years. Provides that interest charged on a loan not exceed the percent of increase in the United States Department of Labor Consumer Price Index during the 12 months preceding the date that the unit applies for a loan. Provides that interest accrues on a loan until the date the board receives notice from the county auditor that the county has adopted at least one of the county income taxes. Provides that interest may not be charged if a county income tax is adopted before a unit applies for a loan. Permits Porter County to adopt ordinances to impose local income taxes effective May 1 rather than July 1 as required under current law. Provides for expedited distributions of local income taxes. Provides that not more than one-third of the total amount to be loaned may be disbursed at any particular time without the review of the budget committee and the approval of the budget agency.

Effective: Upon passage.

**Landske, Antich, Mrvan, Rogers,
Smith S, Alexa**

(HOUSE SPONSORS — CHENEY, AYRES, BROWN C)

November 20, 2001, read first time and referred to Committee on Rules and Legislative Procedure. Reassigned to Committee on Finance

January 24, 2002, amended, reported favorably — Do Pass.

January 28, 2002, read second time, ordered engrossed.

January 29, 2002, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

January 31, 2002, read first time and referred to Committee on Ways and Means.

February 21, 2002, amended, reported — Do Pass.

ES 17—LS 6361/DI 92+



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February 22, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

ENGROSSED SENATE BILL No. 17

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-21.8 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]:

4 **Chapter 21.8. Rainy Day Fund Loans to Qualified Taxing Units**

5 **Sec. 1. As used in this chapter, "board" refers to the state board**
6 **of finance.**

7 **Sec. 2. As used in this chapter, "qualified taxing unit" means a**
8 **taxing unit located in a county having a population of more than**
9 **one hundred forty-five thousand (145,000) but less than one**
10 **hundred forty-eight thousand (148,000).**

11 **Sec. 3. A qualified taxing unit may apply to the board for one (1)**
12 **or more loans from the counter-cyclical revenue and economic**
13 **stabilization fund. The board may make a loan from the fund to the**
14 **qualified taxing unit if:**

15 **(1) a taxpayer with tangible property subject to taxation by**
16 **the qualified taxing unit has filed a petition to reorganize**
17 **under the federal bankruptcy code;**

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(2) the taxpayer has defaulted on one (1) or more of its property tax payments;

(3) the qualified taxing unit has experienced and will continue to experience a significant revenue shortfall as a result of the default; and

(4) the taxpayer is a steel manufacturer.

Sec. 4. (a) The board shall determine the terms of a loan made under this chapter. However, the interest charged on the loan may not exceed the percent of increase in the United States Department of Labor Consumer Price Index during the twelve (12) months preceding the date that the unit applies for a loan under this chapter. A loan must be repaid not later than ten (10) years after the date on which the loan was made. The total amount of all the loans made under this chapter may not exceed twenty-eight million dollars (\$28,000,000). The board may disburse the proceeds of a loan in installments. However, not more than one-third (1/3) of the total amount to be loaned under this chapter may be disbursed at any particular time without the review of the budget committee and the approval of the budget agency.

(b) A loan made under this chapter shall be repaid only from:

(1) property tax revenues of the qualified taxing unit that are subject to the levy limitations imposed by IC 6-1.1-18.5 or IC 6-1.1-19; or

(2) any other source of revenues (other than property taxes) that is legally available to the qualified taxing unit.

The payment of any installment of principal constitutes a first charge against the property tax revenues described in subdivision (1) that are collected by the qualified taxing unit during the calendar year the installment is due and payable.

(c) The obligation to repay a loan made under this chapter is not a basis for the qualified taxing unit to obtain an excessive tax levy under IC 6-1.1-18.5 or IC 6-1.1-19.

(d) Whenever the board receives a payment on a loan made under this chapter, the board shall deposit the amount paid in the counter-cyclical revenue and economic stabilization fund.

(e) This section does not prohibit a qualified taxing unit from repaying a loan made under this chapter before the date specified in subsection (a) if a taxpayer described in section 3 of this chapter resumes paying property taxes to the qualified taxing unit.

(f) Interest accrues on a loan made under this chapter until the date the board receives notice from the county auditor that the county has adopted at least one (1) of the following:



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(1) The county adjusted gross income tax under IC 6-3.5-1.1.

(2) The county option income tax under IC 6-3.5-6.

(3) The county economic development income tax under IC 6-3.5-7.

Notwithstanding subsection (a), interest may not be charged on a loan made under this chapter if a tax described in this subsection is adopted before a qualified taxing unit applies for the loan.

Sec. 5. The maximum amount that the board may loan to a qualified taxing unit is determined under STEP FOUR of the following formula:

STEP ONE: Determine the amount of the taxpayer's property taxes due and payable in November 2001 that are attributable to the qualified taxing unit as determined by the department of local government finance.

STEP TWO: Multiply the STEP ONE amount by one and thirty-one thousandths (1.031).

STEP THREE: Multiply the STEP TWO product by two (2).

STEP FOUR: Add the STEP ONE amount to the STEP THREE product.

However, in the case of a qualified taxing unit that is a school corporation, the amount determined under STEP FOUR shall be reduced by the board to the extent that the school corporation receives relief in the form of adjustments to the school corporation's assessed valuation under IC 21-3-1.6-1.1 or IC 6-1.1-17-0.5.

Sec. 6. (a) As used in this section, "delinquent tax" means any tax:

(1) owed by a taxpayer in a bankruptcy proceeding initially filed in 2001; and

(2) not paid during the calendar year in which it was first due and payable.

(b) Except as provided in subsection (d), the proceeds of a loan received by the qualified taxing unit under this chapter are not considered to be part of the ad valorem property tax levy actually collected by the qualified taxing unit for taxes first due and payable during a particular calendar year for the purpose of calculating the levy excess under IC 6-1.1-18.5-17 and IC 6-1.1-19-1.7. The receipt by a qualified taxing unit of any payment of delinquent tax owed by a taxpayer in bankruptcy is considered to be part of the ad valorem property tax levy actually collected by the qualified taxing unit for taxes first due and payable during a particular calendar year for the purpose of calculating the levy excess under



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1 IC 6-1.1-18.5-17 and IC 6-1.1-19-1.7.

2 (c) The proceeds of a loan made under this chapter must first be
3 used to retire any outstanding loans made by the department of
4 commerce to cover a qualified taxing unit's revenue shortfall
5 resulting from the taxpayer's default on property tax payments.
6 Any remaining proceeds of a loan made under this chapter and any
7 payment of delinquent taxes by the taxpayer may be expended by
8 the qualified taxing unit only to pay obligations of the qualified
9 taxing unit that have been incurred under appropriations for
10 operating expenses made by the qualified taxing unit and approved
11 by the department of local government finance.

12 (d) If the sum of the receipts of a qualified taxing unit that are
13 attributable to:

14 (1) the loan proceeds; and

15 (2) the payment of property taxes owed by a taxpayer in a
16 bankruptcy proceeding and payable in November 2001, May
17 2002, or November 2002;

18 exceeds the sum of the taxpayer's property tax liability attributable
19 to the qualified taxing unit for property taxes payable in November
20 2001, May 2002, and November 2002, the excess as received during
21 any calendar year or years shall be set aside and treated for the
22 calendar year when received as a levy excess subject to
23 IC 6-1.1-18.5-17 or IC 6-1.1-19-1.7. In calculating the payment of
24 property taxes as referred to in subdivision (2), the amount of
25 property tax credit finally allowed under IC 6-1.1-21-5 in respect
26 to those taxes is considered to be a payment of those property
27 taxes.

28 SECTION 2. IC 6-3.5-1.1-2, AS AMENDED BY P.L.135-2001,
29 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 UPON PASSAGE]: Sec. 2. (a) The county council of any county in
31 which the county option income tax will not be in effect on July 1 of a
32 year under an ordinance adopted during a previous calendar year may
33 impose the county adjusted gross income tax on the adjusted gross
34 income of county taxpayers of its county effective July 1 of that year.

35 (b) Except as provided in section 2.5, 2.7, or 3.5 of this chapter, the
36 county adjusted gross income tax may be imposed at a rate of one-half
37 of one percent (0.5%), three-fourths of one percent (0.75%), or one
38 percent (1%) on the adjusted gross income of resident county taxpayers
39 of the county. Any county imposing the county adjusted gross income
40 tax must impose the tax on the nonresident county taxpayers at a rate
41 of one-fourth of one percent (0.25%) on their adjusted gross income.
42 If the county council elects to decrease the county adjusted gross



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income tax, the county council may decrease the county adjusted gross income tax rate in increments of one-tenth of one percent (0.1%).

(c) To impose the county adjusted gross income tax, the county council must, after January 1 but before April 1 of a year, adopt an ordinance. **Except as provided in subsection (g),** the ordinance must substantially state the following:

"The _____ County Council imposes the county adjusted gross income tax on the county taxpayers of _____ County. The county adjusted gross income tax is imposed at a rate of _____ percent (____%) on the resident county taxpayers of the county and one-fourth of one percent (0.25%) on the nonresident county taxpayers of the county. This tax takes effect July 1 of this year."

(d) **Except as provided in subsection (g),** any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(e) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

(f) If the county adjusted gross income tax had previously been adopted by a county under IC 6-3.5-1 (before its repeal on March 15, 1983) and that tax was in effect at the time of the enactment of this chapter, then the county adjusted gross income tax continues in that county at the rates in effect at the time of enactment until the rates are modified or the tax is rescinded in the manner prescribed by this chapter. If a county's adjusted gross income tax is continued under this subsection, then the tax shall be treated as if it had been imposed under this chapter and is subject to rescission or reduction as authorized in this chapter.

(g) This subsection applies to a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). The county council may adopt an ordinance imposing the county adjusted gross income tax that takes effect May 1 of the year the ordinance is adopted. The ordinance must state substantially the following:

"The _____ County Council imposes the county adjusted gross income tax on the county taxpayers of _____ County. The county adjusted gross income tax is imposed at a rate of _____ percent (____%) on the resident county taxpayers of the county and one-fourth of one percent (0.25%) on the nonresident county taxpayers of the county. This tax takes

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effect May 1 of this year."

SECTION 3. IC 6-3.5-1.1-10, AS AMENDED BY P.L.135-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) **Except as provided in subsection (b)**, one-half (1/2) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 8 of this chapter to the appropriate county treasurer on May 1 and the other one-half (1/2) on November 1 of that calendar year.

(b) This subsection applies to a county that adopts an ordinance under section 2(g) of this chapter. In the calendar year in which the ordinance adopted under section 2(g) of this chapter takes effect, the county's certified distribution for the calendar year shall be distributed from its account established under section 8 of this chapter to the county treasurer as follows:

(1) One-fourth (1/4) on August 1.

(2) One-fourth (1/4) on November 1.

Distributions for the calendar year following the calendar year in which the ordinance adopted under section 2(g) of this chapter takes effect shall be made as provided in subsection (a).

(c) Except for:

(1) revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5(d) of this chapter;

(2) revenue that must be used to pay the costs of construction, improvement, or renovation of a jail under section 2.7 of this chapter; or

(3) revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter;

distributions made to a county treasurer under ~~subsection~~ **subsections (a) and (b)** shall be treated as though they were property taxes that were due and payable during that same calendar year. The certified distribution shall be distributed and used by the taxing units and school corporations as provided in sections 11 through 15 of this chapter.

(d) All distributions from an account established under section 8 of this chapter shall be made by warrants issued by the auditor of the state to the treasurer of the state ordering the appropriate payments.

SECTION 4. IC 6-3.5-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) **Except as provided in subsection (g)**, the county income tax council of any county in which the county adjusted gross income tax will not be in effect on July 1 of a year under an ordinance adopted during a previous calendar year may impose the county option income tax on the adjusted

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gross income of county taxpayers of its county effective July 1 of that same year.

(b) The county option income tax may initially be imposed at a rate of two-tenths of one percent (0.2%) on the resident county taxpayers of the county and at a rate of five hundredths of one percent (0.05%) for all other county taxpayers.

(c) To impose the county option income tax, a county income tax council must, after January 1 but before April 1 of the year, pass an ordinance. **Except as provided in subsection (g),** the ordinance must substantially state the following:

"The _____ County Income Tax Council imposes the county option income tax on the county taxpayers of _____ County. The county option income tax is imposed at a rate of two-tenths of one percent (0.2%) on the resident county taxpayers of the county and at a rate of five hundredths of one percent (0.05%) on all other county taxpayers. This tax takes effect July 1 of this year."

(d) If the county option income tax is imposed on the county taxpayers of a county, then the county option income tax rate that is in effect for resident county taxpayers of that county increases by one-tenth of one percent (0.1%) on each succeeding July 1 until the rate equals six-tenths of one percent (0.6%).

(e) The county option income tax rate in effect for the county taxpayers of a county who are not resident county taxpayers of that county is at all times one-fourth (1/4) of the tax rate imposed upon resident county taxpayers.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under this section and immediately send a certified copy of the results to the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). The county income tax council may adopt an ordinance imposing the county option income tax that takes effect May 1 of the year the ordinance is adopted. The ordinance must state substantially the following:

"The _____ County Income Tax Council imposes the county option income tax on the county taxpayers of _____ County. The county option income tax is imposed at a rate of two-tenths of one percent (0.2%) on the resident county taxpayers of the county and at a rate of five hundredths of one percent (0.05%) on all other county taxpayers. This tax takes effect May 1 of this year."



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SECTION 5. IC 6-3.5-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) If during a particular calendar year the county council of a county adopts an ordinance to impose the county adjusted gross income tax in its county on July 1 of that year and the county option income tax council of the county adopts an ordinance to impose the county option income tax in the county on July 1 of that year, the county option income tax takes effect in that county and the county adjusted gross income tax shall not take effect in that county.

(b) If, during a particular calendar year, the county council of a county described in section 8(g) of this chapter adopts an ordinance to impose the county adjusted gross income tax in that county on May 1 of that year and the county option income tax council of the county adopts an ordinance to impose the county option income tax in the county on May 1 of that year, the county option income tax takes effect in that county and the county adjusted gross income tax shall not take effect in that county.

SECTION 6. IC 6-3.5-7-5, AS AMENDED BY P.L.135-2001, SECTION 6, AS AMENDED BY P.L.185-2001, SECTION 3, AND AS AMENDED BY P.L.291-2001, SECTION 179, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may impose the tax is:

- (1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on January 1 of the year the county economic development income tax is imposed;
- (2) the county council if the county adjusted gross income tax is in effect on January 1 of the year the county economic development tax is imposed; or
- (3) the county income tax council or the county council, whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), ~~and~~ (g), ~~ff~~, and (k), the county economic development income tax may be imposed at a rate of:

- (1) one-tenth percent (0.1%);
- (2) two-tenths percent (0.2%);
- (3) twenty-five hundredths percent (0.25%);



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- (4) three-tenths percent (0.3%);
- (5) thirty-five hundredths percent (0.35%);
- (6) four-tenths percent (0.4%);
- (7) forty-five hundredths percent (0.45%); or
- (8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (i), ~~or (j)~~, or (k), the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g), the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. **Except as provided in subsection (l)**, the ordinance must substantially state the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at a rate of _____ percent (____%) on the county taxpayers of the county. This tax takes effect July 1 of this year."

(e) **Except as provided in subsection (l)**, any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred twenty-nine thousand (129,000) but less than one hundred thirty thousand six hundred (130,600). In addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of:

- (A) fifteen-hundredths percent (0.15%);
- (B) two-tenths percent (0.2%); or
- (C) twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%); if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.



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(h) For a county having a population of more than thirty-seven thousand (37,000) but less than thirty-seven thousand eight hundred (37,800), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than twelve thousand six hundred (12,600) but less than thirteen thousand (13,000), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) For a county having a population of more than sixty-eight thousand (68,000) but less than seventy-three thousand (73,000), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(j) This subsection applies to a county having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand three hundred (27,300). In addition to the rates permitted under subsection (b):

- (1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and*
- (2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);*

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(k) This subsection applies to a county having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand three hundred (27,300). In addition to the rates permitted under subsection (b):

- (1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and*
- (2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);*

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(l) This subsection applies to a county having a population of



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more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). The appropriate body may adopt an ordinance imposing the county economic development income tax that takes effect May 1 of the year the ordinance is adopted. The ordinance must state substantially the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at a rate of _____ percent (____%) on the county taxpayers of the county. This tax takes effect May 1 of this year.".

SECTION 7. IC 6-3.5-7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) **Except as provided in subsection (b)**, on May 1 of each year, one-half (1/2) of each county's certified distribution for a calendar year shall be distributed from its account established under section 10 of this chapter to the county treasurer. The other one-half (1/2) shall be distributed on November 1 of that calendar year.

(b) This subsection applies to a county that adopts an ordinance under section 5(l) of this chapter. In the calendar year in which the ordinance adopted under section 5(l) of this chapter takes effect, the county's certified distribution for the calendar year shall be distributed from its account established under section 10 of this chapter to the county treasurer as follows:

(1) One-fourth (1/4) on August 1.

(2) One-fourth (1/4) on November 1.

Distributions for the calendar year following the calendar year in which the ordinance adopted under section 5(l) of this chapter takes effect shall be made as provided in subsection (a).

~~(b)~~ **(c) All distributions from an account established under section 10 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.**

SECTION 8. An emergency is declared for this act.



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SENATE MOTION

Mr. President: I move that Senate Bill 17, currently assigned to the Committee on Rules and Legislative Procedure, be reassigned to the Committee on Finance.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Finance, to which was referred Senate Bill No. 17, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 11 through 17, begin a new paragraph and insert:

"Sec. 3. A qualified taxing unit may apply to the board for one (1) or more loans from the counter-cyclical revenue and economic stabilization fund. The board may make a loan from the fund to the qualified taxing unit if:

- (1) a taxpayer with tangible property subject to taxation by the qualified taxing unit has filed a petition to reorganize under the federal bankruptcy code;**
- (2) the taxpayer has defaulted on one (1) or more of its property tax payments;**
- (3) the qualified taxing unit has experienced and will continue to experience a significant revenue shortfall as a result of the default; and**
- (4) the taxpayer is a steel manufacturer.**

Sec. 4. (a) The board shall determine the terms of a loan made under this chapter. However, interest may not be charged on a loan, and a loan must be repaid not later than ten (10) years after the date on which the loan was made. The total amount of all the loans made under this chapter may not exceed twenty-eight million dollars (\$28,000,000). The board may disburse the proceeds of a loan in installments.

- (b) A loan made under this chapter shall be repaid only from:**
 - (1) property tax revenues of the qualified taxing unit that are subject to the levy limitations imposed by IC 6-1.1-18.5 or IC 6-1.1-19; or**
 - (2) any other source of revenues (other than property taxes) that is legally available to the qualified taxing unit.**

The payment of any installment of principal constitutes a first charge against the property tax revenues described in subdivision (1) that are collected by the qualified taxing unit during the calendar year the installment is due and payable.

(c) The obligation to repay a loan made under this chapter is not a basis for the qualified taxing unit to obtain an excessive tax levy under IC 6-1.1-18.5 or IC 6-1.1-19.

(d) Whenever the board receives a payment on a loan made under this chapter, the board shall deposit the amount paid in the

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counter-cyclical revenue and economic stabilization fund.

(e) This section does not prohibit a qualified taxing unit from repaying a loan made under this chapter before the date specified in subsection (a) if a taxpayer described in section 3 of this chapter resumes paying property taxes to the qualified taxing unit.

Sec. 5. (a) The maximum amount that the board may loan to a qualified taxing unit is determined under STEP FOUR of the following formula:

STEP ONE: Determine the amount of the taxpayer's property taxes due and payable in November 2001 that are attributable to the qualified taxing unit as determined by the department of local government finance.

STEP TWO: Multiply the STEP ONE amount by 1.031.

STEP THREE: Multiply the STEP TWO product by 2.

STEP FOUR: Add the STEP ONE amount to the STEP THREE product.

Sec. 6. (a) As used in this section, "delinquent tax" means any tax:

- (1) owed by a taxpayer in a bankruptcy proceeding initially filed in 2001; and
- (2) not paid during the calendar year in which it was first due and payable.

(b) Except as provided in subsection (d), the proceeds of a loan received by the qualified taxing unit under this chapter are not considered to be part of the ad valorem property tax levy actually collected by the qualified taxing unit for taxes first due and payable during a particular calendar year for the purpose of calculating the levy excess under IC 6-1.1-18.5-17 and IC 6-1.1-19-1.7. The receipt by a qualified taxing unit of any payment of delinquent tax owed by a taxpayer in bankruptcy is considered to be part of the ad valorem property tax levy actually collected by the qualified taxing unit for taxes first due and payable during a particular calendar year for the purpose of calculating the levy excess under IC 6-1.1-18.5-17 and IC 6-1.1-19-1.7.

(c) The proceeds of a loan made under this chapter must first be used to retire any outstanding loans made by the department of commerce to cover a qualified taxing unit's revenue shortfall resulting from the taxpayer's default on property tax payments. Any remaining proceeds of a loan made under this chapter and any payment of delinquent taxes by the taxpayer may be expended by the qualified taxing unit only to pay obligations of the qualified taxing unit that have been incurred under appropriations for



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operating expenses made by the qualified taxing unit and approved by the department of local government finance.

(d) If the sum of the receipts of a qualified taxing unit that are attributable to:

(1) the loan proceeds; and

(2) the payment of property taxes owed by a taxpayer in a bankruptcy proceeding and payable in November 2001, May 2002, or November 2002;

exceeds the sum of the taxpayer's property tax liability attributable to the qualified taxing unit for property taxes payable in November 2001, May 2002, and November 2002, the excess as received during any calendar year or years shall be set aside and treated for the calendar year when received as a levy excess subject to IC 6-1.1-18.5-17 or IC 6-1.1-19-1.7. In calculating the payment of property taxes as referred to in subdivision (2), the amount of property tax credit finally allowed under IC 6-1.1-21-5 in respect to those taxes is considered to be a payment of those property taxes."

Delete pages 2 through 3.

Page 4, delete lines 1 through 2.

and when so amended that said bill do pass.

(Reference is to SB 17 as introduced.)

BORST, Chairperson

Committee Vote: Yeas 11, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 17, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 8, delete "interest may not be charged on a" and insert **"the interest charged on the loan may not exceed the percent of increase in the United States Department of Labor Consumer Price Index during the twelve (12) months preceding the date that the unit applies for a loan under this chapter."**

Page 2, line 9, delete "loan, and a" and insert "A".

Page 2, line 13, after "installments." insert **"However, not more than one-third (1/3) of the total amount to be loaned under this chapter may be disbursed at any particular time without the review of the budget committee and the approval of the budget agency."**

Page 2, between lines 33 and 34, begin a new paragraph and insert:

"(f) Interest accrues on a loan made under this chapter until the date the board receives notice from the county auditor that the county has adopted at least one (1) of the following:

- (1) The county adjusted gross income tax under IC 6-3.5-1.1.**
- (2) The county option income tax under IC 6-3.5-6.**
- (3) The county economic development income tax under IC 6-3.5-7.**

Notwithstanding subsection (a), interest may not be charged on a loan made under this chapter if a tax described in this subsection is adopted before a qualified taxing unit applies for the loan."

Page 2, line 34, delete "(a)".

Page 2, line 41, delete "1.031" and insert **"one and thirty-one thousandths (1.031)"**.

Page 2, line 42, delete "2." and insert **"two (2)."**

Page 3, between lines 2 and 3, begin a new line blocked left and insert:

"However, in the case of a qualified taxing unit that is a school corporation, the amount determined under STEP FOUR shall be reduced by the board to the extent that the school corporation receives relief in the form of adjustments to the school corporation's assessed valuation under IC 21-3-1.6-1.1 or IC 6-1.1-17-0.5."

Page 4, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 2. IC 6-3.5-1.1-2, AS AMENDED BY P.L.135-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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UPON PASSAGE]: Sec. 2. (a) The county council of any county in which the county option income tax will not be in effect on July 1 of a year under an ordinance adopted during a previous calendar year may impose the county adjusted gross income tax on the adjusted gross income of county taxpayers of its county effective July 1 of that year.

(b) Except as provided in section 2.5, 2.7, or 3.5 of this chapter, the county adjusted gross income tax may be imposed at a rate of one-half of one percent (0.5%), three-fourths of one percent (0.75%), or one percent (1%) on the adjusted gross income of resident county taxpayers of the county. Any county imposing the county adjusted gross income tax must impose the tax on the nonresident county taxpayers at a rate of one-fourth of one percent (0.25%) on their adjusted gross income. If the county council elects to decrease the county adjusted gross income tax, the county council may decrease the county adjusted gross income tax rate in increments of one-tenth of one percent (0.1%).

(c) To impose the county adjusted gross income tax, the county council must, after January 1 but before April 1 of a year, adopt an ordinance. **Except as provided in subsection (g)**, the ordinance must substantially state the following:

"The _____ County Council imposes the county adjusted gross income tax on the county taxpayers of _____ County. The county adjusted gross income tax is imposed at a rate of _____ percent (____%) on the resident county taxpayers of the county and one-fourth of one percent (0.25%) on the nonresident county taxpayers of the county. This tax takes effect July 1 of this year."

(d) **Except as provided in subsection (g)**, any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(e) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

(f) If the county adjusted gross income tax had previously been adopted by a county under IC 6-3.5-1 (before its repeal on March 15, 1983) and that tax was in effect at the time of the enactment of this chapter, then the county adjusted gross income tax continues in that county at the rates in effect at the time of enactment until the rates are modified or the tax is rescinded in the manner prescribed by this chapter. If a county's adjusted gross income tax is continued under this subsection, then the tax shall be treated as if it had been imposed under this chapter and is subject to rescission or reduction as authorized in



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this chapter.

(g) This subsection applies to a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). The county council may adopt an ordinance imposing the county adjusted gross income tax that takes effect May 1 of the year the ordinance is adopted. The ordinance must state substantially the following:

"The _____ County Council imposes the county adjusted gross income tax on the county taxpayers of _____ County. The county adjusted gross income tax is imposed at a rate of _____ percent (____%) on the resident county taxpayers of the county and one-fourth of one percent (0.25%) on the nonresident county taxpayers of the county. This tax takes effect May 1 of this year."

SECTION 3. IC 6-3.5-1.1-10, AS AMENDED BY P.L.135-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) **Except as provided in subsection (b),** one-half (1/2) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 8 of this chapter to the appropriate county treasurer on May 1 and the other one-half (1/2) on November 1 of that calendar year.

(b) This subsection applies to a county that adopts an ordinance under section 2(g) of this chapter. In the calendar year in which the ordinance adopted under section 2(g) of this chapter takes effect, the county's certified distribution for the calendar year shall be distributed from its account established under section 8 of this chapter to the county treasurer as follows:

- (1) One-fourth (1/4) on August 1.**
- (2) One-fourth (1/4) on November 1.**

Distributions for the calendar year following the calendar year in which the ordinance adopted under section 2(g) of this chapter takes effect shall be made as provided in subsection (a).

(b) (c) Except for:

- (1) revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5(d) of this chapter;**
- (2) revenue that must be used to pay the costs of construction, improvement, or renovation of a jail under section 2.7 of this chapter; or**
- (3) revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter;**

distributions made to a county treasurer under ~~subsection~~ **subsections**



(a) **and (b)** shall be treated as though they were property taxes that were due and payable during that same calendar year. The certified distribution shall be distributed and used by the taxing units and school corporations as provided in sections 11 through 15 of this chapter.

~~(c)~~ **(d)** All distributions from an account established under section 8 of this chapter shall be made by warrants issued by the auditor of the state to the treasurer of the state ordering the appropriate payments.

SECTION 4. IC 6-3.5-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) **Except as provided in subsection (g)**, the county income tax council of any county in which the county adjusted gross income tax will not be in effect on July 1 of a year under an ordinance adopted during a previous calendar year may impose the county option income tax on the adjusted gross income of county taxpayers of its county effective July 1 of that same year.

(b) The county option income tax may initially be imposed at a rate of two-tenths of one percent (0.2%) on the resident county taxpayers of the county and at a rate of five hundredths of one percent (0.05%) for all other county taxpayers.

(c) To impose the county option income tax, a county income tax council must, after January 1 but before April 1 of the year, pass an ordinance. **Except as provided in subsection (g)**, the ordinance must substantially state the following:

"The _____ County Income Tax Council imposes the county option income tax on the county taxpayers of _____ County. The county option income tax is imposed at a rate of two-tenths of one percent (0.2%) on the resident county taxpayers of the county and at a rate of five hundredths of one percent (0.05%) on all other county taxpayers. This tax takes effect July 1 of this year."

(d) If the county option income tax is imposed on the county taxpayers of a county, then the county option income tax rate that is in effect for resident county taxpayers of that county increases by one-tenth of one percent (0.1%) on each succeeding July 1 until the rate equals six-tenths of one percent (0.6%).

(e) The county option income tax rate in effect for the county taxpayers of a county who are not resident county taxpayers of that county is at all times one-fourth (1/4) of the tax rate imposed upon resident county taxpayers.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under this section and immediately send a certified copy of the results to the department by certified mail.



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(g) This subsection applies to a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). The county income tax council may adopt an ordinance imposing the county option income tax that takes effect May 1 of the year the ordinance is adopted. The ordinance must state substantially the following:

"The _____ County Income Tax Council imposes the county option income tax on the county taxpayers of _____ County. The county option income tax is imposed at a rate of two-tenths of one percent (0.2%) on the resident county taxpayers of the county and at a rate of five hundredths of one percent (0.05%) on all other county taxpayers. This tax takes effect May 1 of this year."

SECTION 5. IC 6-3.5-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) If during a particular calendar year the county council of a county adopts an ordinance to impose the county adjusted gross income tax in its county on July 1 of that year and the county option income tax council of the county adopts an ordinance to impose the county option income tax in the county on July 1 of that year, the county option income tax takes effect in that county and the county adjusted gross income tax shall not take effect in that county.

(b) If, during a particular calendar year, the county council of a county described in section 8(g) of this chapter adopts an ordinance to impose the county adjusted gross income tax in that county on May 1 of that year and the county option income tax council of the county adopts an ordinance to impose the county option income tax in the county on May 1 of that year, the county option income tax takes effect in that county and the county adjusted gross income tax shall not take effect in that county.

SECTION 6. IC 6-3.5-7-5, AS AMENDED BY P.L.135-2001, SECTION 6, AS AMENDED BY P.L.185-2001, SECTION 3, AND AS AMENDED BY P.L.291-2001, SECTION 179, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may impose the tax is:

- (1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on January 1 of the year the county economic development income tax is imposed;
- (2) the county council if the county adjusted gross income tax is



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in effect on January 1 of the year the county economic development tax is imposed; or

(3) the county income tax council or the county council, whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), ~~and~~ (g), ~~(j)~~, and (k), the county economic development income tax may be imposed at a rate of:

- (1) one-tenth percent (0.1%);
- (2) two-tenths percent (0.2%);
- (3) twenty-five hundredths percent (0.25%);
- (4) three-tenths percent (0.3%);
- (5) thirty-five hundredths percent (0.35%);
- (6) four-tenths percent (0.4%);
- (7) forty-five hundredths percent (0.45%); or
- (8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (i), ~~or~~ (j), or (k), the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g), the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. **Except as provided in subsection (l)**, the ordinance must substantially state the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at a rate of _____ percent (____%) on the county taxpayers of the county. This tax takes effect July 1 of this year."

(e) **Except as provided in subsection (l)**, any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

(g) This subsection applies to a county having a population of more

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than one hundred twenty-nine thousand (129,000) but less than one hundred thirty thousand six hundred (130,600). In addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of:

- (A) fifteen-hundredths percent (0.15%);
- (B) two-tenths percent (0.2%); or
- (C) twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%); if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than thirty-seven thousand (37,000) but less than thirty-seven thousand eight hundred (37,800), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than twelve thousand six hundred (12,600) but less than thirteen thousand (13,000), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) *For a county having a population of more than sixty-eight thousand (68,000) but less than seventy-three thousand (73,000), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).*

(j) This subsection applies to a county having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand three hundred (27,300). In addition to the rates permitted under subsection (b):

- (1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and*
- (2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);*

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.



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(k) This subsection applies to a county having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand three hundred (27,300). In addition to the rates permitted under subsection (b):

- (1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and*
- (2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);*

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(l) This subsection applies to a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). The appropriate body may adopt an ordinance imposing the county economic development income tax that takes effect May 1 of the year the ordinance is adopted. The ordinance must state substantially the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at a rate of _____ percent (____%) on the county taxpayers of the county. This tax takes effect May 1 of this year.".

SECTION 7. IC 6-3.5-7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) Except as provided in subsection (b), on May 1 of each year, one-half (1/2) of each county's certified distribution for a calendar year shall be distributed from its account established under section 10 of this chapter to the county treasurer. The other one-half (1/2) shall be distributed on November 1 of that calendar year.

(b) This subsection applies to a county that adopts an ordinance under section 5(l) of this chapter. In the calendar year in which the ordinance adopted under section 5(l) of this chapter takes effect, the county's certified distribution for the calendar year shall be distributed from its account established under section 10 of this chapter to the county treasurer as follows:

- (1) One-fourth (1/4) on August 1.**
- (2) One-fourth (1/4) on November 1.**

Distributions for the calendar year following the calendar year in which the ordinance adopted under section 5(l) of this chapter

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takes effect shall be made as provided in subsection (a).

~~(b)~~ (c) All distributions from an account established under section 10 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 17 as printed January 25, 2002.)

BAUER, Chair

Committee Vote: yeas 24, nays 0.

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